

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

KENNETH ALLEN GARDNER, SR., )  
Plaintiff, )  
vs. ) Case No: 1:12-cv-3993-SLB-TMP  
CALHOUN COUNTY SHERIFF'S )  
OFFICE, et. al., )  
Defendants. )

## MEMORANDUM OPINION

This is a civil action pursuant to 42 U.S.C. § 1983 filed by plaintiff, Kenneth A. Gardner, on November 30, 2012, alleging that his constitutional rights were violated while incarcerated at Calhoun County Jail, in Anniston, Alabama. In his *pro se* complaint, plaintiff names as defendants Officer Williams, Lt. Abernathy, Sgt. Star and Sgt. Garlick. He contends that the defendants subjected him to cruel and unusual punishment. As compensation for the alleged constitutional violation, plaintiff seeks declaratory, injunctive and monetary relief. On December 5, 2014, the magistrate judge entered a report and recommendation, recommending that the defendants' motion for summary judgment be granted and the case be dismissed with prejudice. No objections to the report and recommendation have been filed.

Having carefully reviewed and considered de novo all the materials in the file, including the report and recommendation, the court is of the opinion that the magistrate judge's findings of fact and conclusions of law are due to be and are hereby **ADOPTED** and his recommendation is **ACCEPTED**. Therefore, the court **EXPRESSLY FINDS** that the motion for summary judgment

filed by the defendants is due to be **GRANTED** and the plaintiff's claims are due to be **DISMISSED WITH PREJUDICE**.

An appropriate order will be entered.

**DATED** this 5th day of January, 2015.

*Sharon Lovelace Blackburn*  
SHARON LOVELACE BLACKBURN  
UNITED STATES DISTRICT JUDGE